

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3417(b), Mexican Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is
Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3417 is to provide for the State to regulate the movement and possible carriers of Mexican fruit fly from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that the emergency amendment of Section 3417(b) is necessary is as follows:

Mexican fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Many kinds of fruit, including apple, apricot, avocado, citrus (except lemon and sour lime), guava, nectarine, peach, pear, plum, and pomegranate, and the fruiting bodies of some wild and ornamental plants are known to be hosts or possible hosts of the Mexican fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

This amendment of Section 3417(b) removed an approximate 130 square mile area surrounding the infestation in the Valley Center area of San Diego County as the area under quarantine for Mexican fruit fly. The fly was eradicated

from this area on September 23, 2003; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It was necessary to amend this regulation on an emergency basis to remove the quarantine on the Valley Center area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. If the restrictions were continued, growers and those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Therefore, it was necessary to amend this regulation to remove the regulated area in the Valley Center area of San Diego County as an emergency action.

Because this fly is repeatedly introduced into California with many infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word "reserved" in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3417 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment removed that portion of San Diego County that was in the area under quarantine; therefore, enforcement is no longer necessary.

There are no mandated costs associated with the removal of the Valley Center area from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulations on private persons or businesses is not expected to be significant.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

Six hundred and thirty-nine businesses that were impacted by the restrictions of this quarantine regulation are no longer impacted because the area in which they are located is being removed from the regulation.

Based on the above information, it was determined that the amendment of Section 3417(b) will not have a significant adverse economic impact on businesses.

Assessment

The Department has made an assessment that the amendment to this regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3417(b):

Memo of September 18, 2003 to Dr. Dennis E. Mayhew from Gary Agosta.